

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
July 14, 2005
9:30 a.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, June 16, 2005 in Nashville, Tennessee at 9:30 a.m. Commissioners John Jones, Harlan Mathews and Cynthia Bond were present. Director Danielle Elks, CLEO Mark Hutchens, ASAC Andy Woodall and SA Al Watson from the staff were present.

1. The Minutes for June 16, 2005 Commission Meeting were approved subject to verification of the matter regarding the “Texas Hold Em” Memorandum.

2. RETAIL PACKAGE STORES:

A. OLD BUSINESS

**1. H & M SPIRITS, LLC
LOBELVILLE, TENNESSEE (PERRY COUNTY)**

**Applicant: H & M Spirits, LLC
Stockholder: Joan Holder and Sandra Jo Mathis**

Before the Commission is an application for a new retail store to be located at 113 South Main Street in Lobelville, Tennessee. Ms. Joan Holder and Ms. Sandra Jo Mathis intend to initially invest \$75,000. If approved, each would own fifty percent. Financing is based upon a loan with Bank of Perry County. This matter was continued from the April, 2005 Commission meeting because of a potential problem with Perry County’s referendum. When a county wide referendum for package store sales is passed, then package stores sales can only take place in incorporated municipalities that have at least a thousand (1,000) people. The City of Lobelville is incorporated; however, the city did not meet the 1,000 population requirement within their incorporated boundaries according to the last census. Subsequently, Lobelville conducted a special census and determined that its population as of June 24, 2005 is 1,025—thereby, meeting the requirements of the referendum. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the above mentioned documents. Commissioner Mathews made a motion to approve upon submission of the pending documentation and Commissioner Bond seconded the motion and it passed with 3 ayes.

B. NEW BUSINESS

**1. ROSY'S WINE AND SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Amy Lynn Dever

Before the Commission is a request for a new retail store to be located at 5030 Clinton Highway, in Knoxville, Tennessee. Mrs. Amy Lynn Dever intends to operate the business as a sole proprietorship, and initially invest approximately \$40,000. Financing is based personal funds. It should be noted that Mrs. Dever's husband, Thomas Dever, is the owner/operator of Cork and Bottle retail store in Knoxville. All documentation has been submitted with the exception of the following:

- a. Acknowledgement of the Rules and Regulations;
- b. Verification of independent funding/financing for Mrs. Dever for the initial investment (not from joint accounts).

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the signature page of the loan agreement and acknowledgment of the Rules and Regulations. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**2. RALEIGH LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: John S. Fowler and Virgil L. Wells
Applicant: Lynne P. Wilkinson

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Before the Commission is a request for a transfer of ownership of the retail store located at 3503 Ramill Road in Memphis, Tennessee. Ms. Lynne Wilkinson intends to purchase the business for \$343,000 and then operate the business as a sole proprietorship. Approximately \$118,000 of the purchase price would be for the cost of existing inventory. Financing is based upon a business loan with Trust One Bank. Mr. Billy Parks will manage the business for Ms. Wilkinson. All documentation has been submitted with the exception of the following:

- a. Resignation of Mr. Parks from the Victor Robilio Company.

Discussion/Action Taken:

Ms. Lynne Wilkinson was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. MARYLAND FARMS WINE & SPIRITS Brentwood, Tennessee (Williamson County)

Applicant:	Maryland Farms Wine & Spirits, LLC
Members:	John Cooper

Before the Commission is a request for a new retail store to be located at 101 Creekside Cross, Suite 700 in Brentwood, Tennessee. Mr. John Cooper intends to operate the business as a LLC, with himself as the sole member. He intends to initially invest approximately \$750,000, which has been obtained from personal funds and a line of credit from First Tennessee Bank. This matter was originally heard by the Commission at its February, 2005, meeting; however, the business was unable to open within the designated time and withdrew its original application. Applicant, through their attorney, has stated that all information and documentation remains the same as originally submitted. All documentation has been submitted with the exception of the following:

- a. Deed to Maryland Commons, LLC;
- b. Bank Credit Check;
- c. Questionnaire for Collette Meehan;
- d. Application fee; and
- e. Letter of Waiver of Hearing amended to reflect Applicant's name.

Discussion/Action Taken:

Jennifer Lawson was present on behalf of Henry Hildebrand, III, attorney for Maryland Farms Wine & Spirits. Director Elks reviewed the application for the Commissioners and stated that that all documentation had been received with the exception of the questionnaire for Collette Meehan and recommended approval upon submission of the questionnaire for Collette Meehan. Chairman Jones made a motion to approve upon submission of pending document. Commissioner Bond seconded the motion and it passed with 3 ayes.

**4. SELLER
Nashville, Tennessee (Davidson County)**

**Applicant: Bryce Ventures, LLC
Member: Carol Jacobson**

Before the Commission is a request for approval of a new retail establishment to be located at 6000 Highway 100, Suite 101, in Nashville, Tennessee. Ms. Carol Jacobson intends to initially invest approximately \$250,000. Financing is based upon a promissory note with Bank of America, and personal funding. This matter was originally heard by the Commission at its February, 2005, meeting; however, the business was unable to open within the designated time and withdrew its original application. Applicant, through their attorney, has stated that all information and documentation remains the same as originally submitted. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection; and
- c. Acknowledgement of the Rules and Regulations; and
- d. Any management agreements or other documents/agreements related to the operation of the business.

Discussion/Action Taken:

Mollie Mahan, attorney, was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the above mentioned documents. Director Elks further stated that Dan Haskell, attorney for the establishment, stated that no management documents or other agreements related to the operation of the business existed. Commissioner Bond made a motion to approve upon submission of the remaining documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

3. LIQUOR BY THE DRINK

**A. THE CLUB AT FAIRVUE PLANTATION
GALLATIN, TENNESSE (SUMNER COUNTY)**

TLP/Devco, LLC d/b/a The Club at Fairvue Plantation currently has a private club license covering its main Clubhouse. The license was obtained pursuant to T.C.A. § 57-4-102(7)(J) which contains a "club" definition specifically applying to this establishment. The Club at Fairvue Plantation has now applied for an additional license to cover a second clubhouse located at the pool area. All documentation has been submitted with the exception of the following:

- a. A copy of the newspaper notice
- b. Copy of the sales and use tax certificate of registration
- c. List of members for Moore Co TLP Investment, LLC
- d. Attachment to affidavit regarding private club requirements

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and stated that all documentation had been received with the exception of the copy of the newspaper notice and recommended approval upon submission of the newspaper notice. Chairman Jones asked whether the pool area was in close proximity to the clubhouse so that the original premises could be extended to cover the pool area. Director Elks stated that question was previously investigated; however, the pool was at least 100-200 yards away from the clubhouse, and one license was not feasible. Commissioner Mathews made a motion to approve upon submission of the document. Commissioner Bond seconded the motion and it was approved with 3 ayes.

3. WHOLESALE MATTERS

**A. ALEXSEY'S IMPORTS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Alexsey's Imports is requesting to transfer location from 3628-B Trousdale Drive, Nashville to 1056 Acorn Drive in Nashville. The reason for the transfer of location is because the business has outgrown its current location. Documentation lacking from the request includes the following:

- a. Lease/Deed;
- b. Use and Occupancy Permit, and
- c. TABC Inspection.

Discussion/Action Taken:

Alexei Khimenko was present at the meeting. Director Elks reviewed the application and recommended approval upon submission of the Use and Occupancy Permit and the TABC Inspection. Commissioner Mathews made a motion to approve upon submission of the pending documentation and Commissioner Bond seconded the motion and it passed with 3 ayes.

4. CONTESTED CASES

Shonda Roberts

Ms. Roberts has appealed the decision of TABC staff denying her application for a server permit, and has requested a hearing. TABC staff denied Ms. Dunlap's application for a permit based on a 2002 felony drug possession with intent to sell conviction. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a felony within four years of the date of the application.

Discussion/Action Taken:

Director Elks requested that the Commission enter a Default Judgment because Ms. Roberts was not present and she was aware that this matter would be heard this month. Commissioner Bond made a motion that a Default Judgment be entered and proceed on the denial of the application. Commissioner Jones seconded the motion and it passed with 3 ayes.

Upon review of the facts surrounding the denial, Director Elks stated that a motion was required to uphold the denial of the application of Shonda Roberts. Commissioner Mathews made a motion to uphold the denial of the application. Commissioner Bond seconded the motion and it passed with 3 ayes.

Further discussion among the Commissioners occurred reiterating their previous position on Tennessee statutes regarding the mandatory denial of server permit applications when certain convictions exist. Chairman Jones expressed specific concerns regarding the length of mandatory denials from the date of conviction, as well as the Commission's inflexibility to consider other circumstances on behalf of the applicant. Chairman Jones requested Director Elks to prepare a memorandum setting forth the Commission's concerns.

5. WINERY

6. SPECIAL OCCASION LICENSES

7. CONSUMER EDUCATION SEMINAR LICENSES
8. PERSONNEL
9. BUDGET
10. CONSENT ORDERS
11. PENDING MATTERS LIST
12. MISCELLANEOUS—RULEMAKING PROPOSALS

The Tennessee Retail Association has submitted proposed changes to the TABC Rules and Regulations. This is only preliminary, and has been provided for information purposes.

Discussion/Action Taken:

Ms. Elks stated that these proposed rulemaking changes were just proposals and did not need to be acted on at this meeting. Chip Christianson with the Tennessee Wine and Spirits Retail Association stated that he submitted updates to the rules and regulations that related to their portion of the Industry and did not address everything in the rules and regulations.

13. DATE OF NEXT MEETING – August 11, 2005 at 9:30 a.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman